

REMARKS

In the Office Action of June 11, 2008, the Examiner has advanced a further Restriction Requirement.

Group I has already been elected for further examination. Within Group I, the species of mGluR4 and the measurable cellular response of change in intracellular calcium concentration have been selected.

No claims are herein amended. Claims 1-3, 7, 23, 31-33 and 35-38 are under consideration.

Under 35 U.S.C. 121, the Examiner required a further election of a species for prosecution among the following three groups of species:

- (I) (a) methods wherein the test cells are contacted with the test compound and control cells simultaneously; and
(b) methods wherein the test cell population is contacted with the test compound independently from the control cell population being contacted with the test compound.
- (II) (a) methods to identify an agonist of a metabotropic glutamate receptor; and
(b) methods to identify an antagonist of the activation of a metabotropic glutamate receptor.
- (III) means for detecting a change in the elected measurable cellular response (intracellular calcium concentration):
 - (a) measuring fluorescence of a calcium sensitive dye; and
 - (b) measuring a reporter gene operably linked to a regulatory sequence which responds to a change in intracellular concentration of calcium.

In response to this requirement, Applicants further elect the following species without traverse:

- (I)(b) methods wherein the test cell population is contacted with the test compound independently from the control cell population being contacted with the test compound;
- (II)(a) methods to identify an agonist of a metabotropic glutamine receptor; and

(III) means for detecting a change in the elected measurable cellular response (intracellular calcium concentration): (a) measuring fluorescence of a calcium sensitive dye.

Claims 23, 28, 31-33, and 35-38 read on the elected species (I)(b); claims 1-3, 7, 23, 28, 33, 37 and 38 read on the elected species (II)(a) methods to identify an agonist; and claims 1-3, 7, 23, 35-38 read on the elected species (III)(a) measuring fluorescence of a calcium sensitive dye.


This election is being taken without prejudice to the filing of a divisional application directed to the non-elected subject matter. In accordance with the third sentence of 35 U.S.C. §121, a patent issuing from the instant application should not be a reference against a divisional application filed before the issuance of such patent.

It is believed that the claims are in a condition for allowance and a notice to that effect is earnestly solicited.

If the Examiner believes that a telephone conference would be of value, he is requested to call the counsel of record: Joan E. Switzer at (732)594-5616.

Any additional fees required in connection with this submission may be taken from Merck Deposit Account No. 13-2755.

Respectfully submitted,

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